IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 5443 of 2005

Between:

C.Suresh Babu, S/o.Venkata Naidu,
R/o.Tadipatri Village, Anantapur District.

..... PETITIONER

AND

1 The Andhra Pradesh Public Service Commission Rep

by its Secretary, Gruhakalpa, Nampally, Hyderabad.
2 The Government of Andhra Pradesh, Rep by its Chief

Secretary, GAD, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to May be pleased to issue Writ order or direction more particularly one in the nature of writ of Mandamus declaring the action of the A.P.Administrative Tribunal in dismissing M.A.No.718/2004in O.A.No.5216/1998 dt.22-7-2004 as illegal, arbitrary, discriminative in nature and consequently direct the respondents to consider the case of the petitioner for the post of Group-I services in pursuance of vacancies arise in non-joining vacancies vide advertisement No.4/95, dated.
16-5-95.

Counsel for the Petitioner:MR.P.V.S.S.S.RAMA RAO

Counsel for the Respondents Nos.1 & 2: GP FOR GENERAL

ADMINISTRATION

The Court made the following :

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O R D E R:(Per G.Bikshapathy, J)

The writ petition is filed challenging the order passed by the A.P. Administrative Tribunal in M.A.No.718 of 2004 in O.A.No.5216 of 1998, dated 22-7-2004.

2. The matter relates to the appointment of the petitioner in Group-I Services of Andhra Pradesh in pursuance of Advertisement No.4 of 1995, dated 16-5-1995. The O.A filed by the petitioner was disposed of with the following observations:

> "It is represented by the learned counsel for the applicant that the subject matter of this O.A is covered by the judgment of this Tribunal in O.A.No.2180/2000, dated 26.9.2001. In the said O.A., the following direction was given:
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> > "The applicants belonging to B.C. 'C' community, appeared for the selections made by service Commission vide Advt.No.4/95 dated 16.5.1995, but were not successful and did not figure in the select list published on 26.7.1997. Their main contention is that, there are certain fall-out vacancies because of non-joining of selected candidates meant for B.C. 'C' candidates, for example, the two posts of Lay Secretary and District Panchayat Officer. Their contention is that their candidature has to be considered in the selection list of 1997 itself in the similar benefit issued to the applicant in O.A.No.1818/98, by the A.P.P.S.C., based on the Tribunal orders in that O.A. The 2nd respondent, i.e., A.P.P.S.C. contends in the counter that the exact mode of operation of waiting list contemplated in Rule 6 of A.P.P.S.C.

is pending before the High Court in W.P.Nos.17119 to 17112/98 and the High Court had stayed the earlier orders of the Tribunal in O.A.No.1231/96 and batch dated 13.8.98 and as such, the issue as to the exact manner of operating the waiting list is not finally settled. Moreover, the principle of maintaining of waiting list has been dispensed with vide G.O.Ms.No.81, dated 22.9.97. The orders of the Tribunal in O.A.No.1231/96 and batch dated 13.8.98, which were stayed by the High Court are different from the orders of the Tribunal in O.A.No.1818/98, which were implemented by the A.P.P.S.C for the applicant in that O.A. In view of the above referred discussion, the 2nd respondent is directed to consider the candidature of the applicants in this O.A based on their merit in the selection list of 1997, for the vacancies meant for B.C. 'C' candidates notified vide Adv.No.4/95 dated 16.5.1995."

As the applicant in this O.A. is also similarly situated as that of the applicants in O.A.2180/2000, this O.A is also disposed of with the same directions as issued in O.A.2180/2000. No costs."

3. When the petitioner filed an application before the Tribunal for implementation of the orders of the Tribunal, dated 30-11-2001, it was refused to be implemented on the ground that this Court in W.P.No.21751 of 2002, restricted the relief only to the candidates mentioned therein and therefore, rejected the case of the petitioner. Against which, the present writ petition has been filed.

4. The Learned counsel for the petitioner submits that the action of the Tribunal in rejecting the case of the petitioner is highly discriminatory.

5. Heard the learned counsel for the petitioner and the learned Government Pleader for respondents.

6. When all the three persons are sailing in the same boat, the matter has to be clarified to that extent.

7. Under the facts and circumstances of the case, the writ petition is disposed of with a direction to the respondents to consider the case of the petitioner also without reference to the restriction order passed by this Court in W.P.No.21751 of 2002, dated 7-11-2002. No costs.

G. Bikshapathy, J.

P.S.Narayana, J.

Dated 21st March, 2005

Mrb

To

1 The Secretary, Andhra Pradesh Public Service

Commission Gruhakalpa, Nampally, Hyderabad.

2 The Chief Secretary, Government of Andhra Pradesh,
GAD, Secretariat , Hyderabad.

3. Two CCs to GP for General Administration, High Court

Buildings, Hyderabad(OUT)

4. Two CD copies.